UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.4
24 May 2000

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-first session

# SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 August 1999, at 3 p.m.

Chairman: Mr. HATANO

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

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GE.99-14494 (E)

The meeting was called to order at 3 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1999/4, E/CN.4/Sub.2/1999/NGO/9)

1. Mr. PARTHIPAN (International Educational Development) said that the Sri Lankan Government continued to use food, medicine and even rape as weapons in the genocidal war it had been waging against the Tamils for 16 years. As a result of that policy, 300,000 people were threatened with famine in the Wanni region. The two officials who had reported that information had been dismissed. According to the Catholic Bishop of Mannar, about 4,000 people were without shelter, food and water in the Viduthaltheevu and Pallamadu regions. The Government had imposed severe restrictions on the freedom of action of non-governmental organizations (NGOs) trying to remedy that situation.

2. The deliberate denial of food and medicine to the civilian population was clearly a war crime, and the first to suffer were children. The international community should take urgent action to ensure that supplies and medicines were able to reach the 300,000 people in the Wanni region who were threatened with starvation.

3. Ms. TANGGAHMA (Survival International) said that the hopes raised in West Papua by the fall of President Suharto, the signing by the Indonesian Government of a memorandum of understanding with the High Commissioner for Human Rights, the adoption of a national plan for human rights and the opening of a "national dialogue" between representatives of West Papua and the Indonesian authorities to look into the question of greater autonomy and independence for the province had been quickly dashed.

4. The army and police were carrying out operations to intimidate human rights defenders and supporters of the above-mentioned national dialogue, including by closing down the "posts of socialization" set up throughout the country to inform the people about the outcome of the talks taking place. Instead of protecting the people, members of the armed forces were behaving like murderers. For example, on 7 June 1999, a young man aged 20, Robert Yaung, had been killed by two soldiers.

5. Representatives of the Governments of Indonesia, Australia and Papua New Guinea, as well as representatives of Amnesty International and Human Rights Watch, should investigate the litany of human rights abuses committed in West Papua, including the case of the 33 corpses found the year before on the beaches of Biak, which had still not been resolved.

6. Freedom of expression was also held in contempt. In Sorong, in July, about 20 students had been arbitrarily arrested during a peaceful demonstration. In that connection, she would like the preliminary report of the Working Group on Arbitrary Detention, which had recently visited Indonesia, to be translated and distributed to members of the armed forces and the security forces

as part of the human rights information activities provided for in the national plan of action on human rights. It was high time to put an end to the impunity enjoyed by members of the armed forces who in the past 36 years had been guilty of countless violations, including arbitrary arrests and executions.

7. Ms. BATHA (World Evangelical Fellowship) said that in Viet Nam, while article 1 of decree No. 26/1999/ND-CP of April 1999 recognized freedom of belief and religion, article 5 of the same decree outlawed "superstitious activities", which ranged from "all activities using religious belief in order to oppose the State of the Socialist Republic of Viet Nam" to activities that went against "the healthy culture of [the] nation". The authorities interpreted that article and article 70 of the 1992 Constitution, which was equally ambiguous, as they pleased, in order to restrict religious freedom.

8. For example, in the previous 23 years, not a single Protestant church had been officially recognized, which forced their congregations to meet "illegally". Pastors were frequently harassed, arrested, tortured and imprisoned in re-education camps. Christian members of tribal minorities, especially the Hmong tribe, were increasingly persecuted. Thirty religious leaders from that community were currently in prison. People who were arrested could be held for three years without charge or trial, often in very harsh conditions. In Binh Phuoc province, the authorities had begun a campaign to destroy the places of worship of the Mnong community. Four churches had been destroyed in the month of July 1999 alone, on the grounds that official building permission had not been granted, even though for years the congregation had been requesting authorization to rebuild churches that were falling down.

9. In conclusion, her organization recommended that the Sub-Commission should urge the Vietnamese Government to respect freedom of belief and religion, quickly release the Christians imprisoned for exercising that freedom in accordance with article 18 of the Universal Declaration of Human Rights, and end the persecution of ethnic Christian minorities.

10. Ms. BIONDI (International Confederation of Free Trade Unions) said that in too many countries trade unionists defending the legitimate rights of workers as laid down in international conventions were risking their liberty, their job or even their life. In Colombia, for example, at least 35 trade unionists had been killed by death squads since the beginning of 1999. In Ecuador, her organization had requested President Mahuad to lift the state of emergency and put a stop to the brutal repression of trade unionists and human rights defenders.

11. In Burma, over 800,000 people were still subjected to forced labour, which had earned the country the condemnation of both the Commission on Human Rights and the International Labour Organization (ILO). In China, independent trade union members had to operate underground and were at constant risk of arrest. The repression was also hitting workers who protested about unpaid wages and pensions.

12. In Ethiopia, a trade unionist, Taye Wolde Semayat, had been sentenced to 15 years in jail for promoting social and trade union rights in his country. In Djibouti, on 1 May 1999, the national police had attacked the headquarters of the UDT/UGTD union. In Cape Verde, the Government was unlawfully restricting workers' rights, including the right to strike.

13 In Belarus, the police were violating trade union rights, and the decree prohibiting the activities of independent trade unions was still in force

14 In Australia, there had been a campaign to wipe out the maritime union, including by recruiting mercenaries A satisfactory solution had been found to that labour conflict, but only because of the dock workers' loyalty to their union and the international solidarity they had received

15 In conclusion, she called on all human rights groups and all United Nations bodies to launch a major campaign to have workers' rights recognized as a fundamental component of human rights in general

16 Mr McNAUGHTON (International Human Rights Association of American Minorities) said that institutional racism existed in the United States, as shown by the high proportion of African-Americans in the prisons As the prison system was being privatized, the incarceration of a black man henceforth meant a profit for a white man In California, moreover, black Muslim inmates were particularly susceptible to discrimination

17 In contravention of article 12 of the declaration signed in Rio on 29 June 1999 by heads of State from the European Union, Latin America and the Caribbean and articles 54 and 64 of the Vienna Convention on the Law of Treaties, the Government of Peru had decided no longer to recognize the jurisdiction of the Inter-American Court of Human Rights, which had found it guilty of enforced disappearances and other human rights violations That regrettable step, which deprived Peruvian citizens of a remedy, came at a time when the number of human rights violations in Peru was increasing at an alarming rate

18 In Mexico, not only was the Government not disarming the paramilitary groups operating in the State of Chiapas, but it was continuing to create and support new ones In that connection, it was particularly outrageous that one of the leaders of a Mexican anti-Zapatista paramilitary group, the Movimiento Indigena Revolucionario Antizapatista (MIRA), in the person of Norberto Lopez Santis, an indigenous member of Parliament from the Institutional Revolutionary Party (PRI), the ruling party in the National Congress, should be attending the session of the Sub-Commission with the financial support of the Mexican Government

19 The situation in Kashmir deserved special attention Contrary to the promise made to them by the Security Council in 1951, the people of Kashmir had still not been able to exercise their right to self-determination Only the day before, 25 innocent people had been murdered, tortured or abducted by the Indian army or by paramilitary groups supported by the Indian Government Women and young girls had been raped and children had been tortured to death And yet all those crimes remained unpunished

20 The Sub-Commission should do what it could to ensure that the plebiscite promised to the Kashmiri people was held

21 Mr GRAVES (Interfaith International) denounced the interference by the Iraqi Government in the internal affairs of religious communities in Iraq, particularly the Shiite

community. Such interference even included ordering the assassination of religious leaders and members of their families, for example, the ayatollahs Al Borojourdi and Al Gharawi had been assassinated in 1998.

22. With regard to Bahrain, he asked that members of the political opposition should be allowed to take advantage of the promised amnesty or to return to the country without having to "confess" their anti-Government activities and submit to the ruling family, which should recognize the legitimate civil and political rights of those calling for the return of Parliament.

23. His organization was also concerned that in Afghanistan the Taliban were trying to impose their ideology on the Khazar ethnic minority, which had always placed men and women on an equal footing.

24. In various provinces in the east of India, the traditional culture of some populations, including the Assamese, the Tripurans and the Nagas, was under threat from the arrival of many settlers. The Sub-Commission should call on the Government to respect the right of those populations to oppose its policy peacefully and also the rights of the human rights defenders supporting them. In Jammu and Kashmir, religious intolerance and related human rights violations were still a matter of great concern. The people in Gilgit and Baltistan were deprived of many of their basic rights and their language and traditional culture were threatened. The wars in the region between India and Pakistan had led to massive movements of the population. The international community and the Governments concerned should endeavour to resolve the very complex problems of Kashmir.

25. Lastly, respect for cultural differences should be a fundamental principle in a multicultural, modern country like Pakistan. The Government should therefore do everything in its power to protect the ancient Sindhi culture and the rights of the Mohajirs.

26. Ms. SINGH (Lutheran World Federation) recalled that the Sub-Commission had expressed deep concern at its previous session over the plight of some 90,000 people who had been living in refugee camps, mostly in eastern Nepal, for seven years, and also over the resettlement programme in southern Bhutan on lands that might once have belonged to refugees. One year later, the situation was still the same.

27. The Sub-Commission had also requested the Governments of Nepal and Bhutan to negotiate a peaceful solution, but the negotiations currently appeared to be moribund as the Bhutanese Government had refused to set a date for a meeting.

28. As the two Governments were at variance over the status and origin of the refugees, the Sub-Commission had called on them to set up an impartial verification process and do all they could to facilitate the return of Bhutanese whose refugee status had been confirmed. It had also suggested that they should avail themselves of technical assistance from the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees in order to facilitate the search for a fair and lasting solution that took into account the principles of international law in the areas of human rights and statelessness and the representations on behalf of the displaced population. Not one of those suggestions had been acted upon.

29 That was why the Sub-Commission should act more firmly to break the silence and promote real progress towards a solution for the Bhutanese refugees, rather than just make empty promises.

30 Mr. PARY (Indian Movement "Tupaj Amaru") said that, at the dawn of the third millennium, the proliferation of weapons of mass destruction, drugs, organized crime, corruption and unbridled speculation on the stock market were a threat to world peace and stability. The low-intensity war against Iraq, the embargo on Cuba and the coercive measures used against developing countries added to international tension. Since the fall of the Berlin wall, a single super-Power had been imposing its will and selfish interests on the developing countries.

31 On 23 March 1999, the North Atlantic Treaty Organization (NATO), led by the United States of America, had undertaken the systematic destruction of a small developing country in the Balkans. The damage caused by the war against Yugoslavia was estimated at over $100 billion. That war against a sovereign State and Member of the United Nations had been the main cause of the massive exodus of refugees, which had led to a real humanitarian disaster. An extremely dangerous precedent had been set. NATO would effectively be claiming the right to intervene anywhere in the world where ethnic conflicts flared up.

32 One might also ask why the economic and military powers that insisted on autonomy for the Kosovar people denied the right to self-determination to other peoples, including the Kurds and the Basques. In that connection, he stressed his organization's full support for the right of the Albanian people in Kosovo to preserve their cultural and religious identity and to enjoy autonomy.

33 Nonetheless, it was plain that NATO had acted in flagrant violation of international law and the Geneva Conventions and without the agreement of the Security Council, the only body with a mandate to safeguard peace throughout the world. As the war waged by NATO was a crime against humanity as defined by the Statute of the International Criminal Court, the international community should demand that the NATO Secretary-General, Javier Solana, who had ordered the attack on a sovereign country, should be tried as a war criminal by the Court.

34 Mr. AHMAD (World Muslim Congress) denounced the massive and persistent violations of human rights perpetrated by the Indian army and by paramilitary forces in Kashmir. The burning down of villages, arbitrary arrests, the collective punishment of entire communities, the rape of women, torture, "disappearances" and summary executions, especially of prisoners, were commonly practised by the Indian army, which acted with absolute impunity.

35 The population lived in fear, as did human rights defenders, who had been threatened or killed, as in the case of Jalil Andrabi, whose murderer, Major Avtar Singh, had still not been arrested. Moreover, since several journalists had been killed, the press practised self-censorship for fear of reprisals.

36 Furthermore, the Indian Government had defied democratic principles by rigging the elections for 52 years. Protest movements had been violently suppressed, which had naturally led to the emergence of armed resistance.

37. The military occupation of their territory by India was unacceptable to the Kashmiri people. Their basic wish was to decide on their own future by means of a referendum. The international community could play a role by organizing free and fair elections. A visit to Kashmir by special rapporteurs would be another way to help the Kashmiri people.

38. Mr. CRUZ LOPEZ (Movement against Racism and for Friendship among Peoples) said that following the arrest and disappearance, between 15 and 17 April 1998, of five members of the People's Indigenous Council of the State of Oaxaca, Mexico, other members of the Council, including himself, as well as relatives of those concerned, had been arrested, beaten and tortured for a whole day. They had subsequently been released but the officials responsible for those repressive measures had not been either prosecuted or punished; on the contrary, some of them had had their appointments confirmed and others had been promoted to important positions in the federal Government. Moreover, no action had been taken on the recommendation sent on 31 March 1999 by the National Human Rights Commission to the Governor of the State of Oaxaca urging him to open an investigation into the events in order to determine whether there had been any abuse of power by the State officials responsible, showing the Commission to be powerless in the face of impunity.

39. The Mexican Government thus showed how lenient it was towards all State officials guilty of torture and murder while at the same time it stepped up its repression of peasants, indigenous people and poor people whose rights were violated every day. Yet indigenous people were not trying to impose their political, military or ideological views on the rest of society. All they were asking was that their rights should be respected and that the Mexican Government should fulfil its obligations under the international treaties to which it had acceded.

40. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that many of the current conflicts around the world stemmed from the denial of the right of peoples to self-determination. The Sub-Commission should therefore redefine that concept and adapt it to the realities of the contemporary world, as the notion of borders or peoples had changed.

41. In Sri Lanka, the Government had been implementing a policy since 1948 which had gradually and systematically deprived Tamils of their fundamental rights. It was estimated that more than 50,000 people had been killed in the north-eastern region and that 1 million people had been displaced internally and outside the country since 1983. The situation of those people, particularly of women and children, was characterized by insecurity and destitution. In the Wanni region in particular, hundreds of thousands of people were deprived of basic services, and their problems were compounded by the logistical restrictions imposed by the Government on the movement of goods and people in the region. As a result, there was a shortage of, among other things, medicines, foodstuffs, kerosene and even school supplies. The new tactic of the Sri Lankan Government was to deprive the Tamils of food and medicine, with the result that some people in the Wanni region had died of hunger and a lack of medical care. Moreover, the Sri Lankan army had refused to allow the International Committee of the Red Cross to take relief supplies to Wanni.

42. With regard to human rights violations, the NGO Council in Jaffna had reported the disappearance of 600 people arrested by the security forces in 1996. The army prevented Sri Lankan and foreign journalists from entering the Wanni and Mutur regions, where freedom of movement and cultural, social and educational activities were severely curtailed.

43. Her organization requested the President of Sri Lanka to take practical steps to resolve those problems and the Sub-Commission to take action to help find a solution to the conflict.

44. Mr. AHERN (Pax Romana) invited the Sub-Commission to keep developments in the human rights situation in Mexico under review and to request the Commission to appoint a special rapporteur to investigate, in particular, the situation of indigenous people.

45. With regard to Indonesia, he welcomed the launch of the technical cooperation programme of the Office of the United Nations High Commissioner for Human Rights but noted that the disappearance of a number of young human rights defenders had still not been cleared up and that the perpetrators of violations during the riots in 1998, which had been amply documented by the special rapporteurs of the Commission on Human Rights, had still not been punished. In that respect, he deplored the fact that the Indonesian Government had taken no concrete steps to follow up recommendation No. 8 of the Working Group on Arbitrary Detention, to the effect that cases involving civilians, especially in the field of human rights, did not come under the jurisdiction of military courts.

46. The situation in the province of Aceh provided a typical example of a pattern of consistent and systematic violations of human rights. Only recently, on 23 and 24 July 1999, around 70 civilians had been tortured and executed by the Indonesian army, whose atrocities had led to the displacement of thousands of people, who were destitute and living in poor sanitary conditions.

47. While welcoming the fact that the discussion between the Indonesian Government and the High Commissioner for Human Rights on the human rights situation in Indonesia had led to the signing of a memorandum of understanding in 1998, he was convinced that without a follow-up mechanism to reveal the obstacles to the actual implementation of the memorandum and to establish a timetable for implementation, little progress would be made.

48. He therefore requested the Sub-Commission to adopt two resolutions, one condemning the atrocities committed by the army in Indonesia and asking the Indonesian Government to take measures to prevent further human rights violations in Aceh and to take more vigorous action against impunity, and the other requesting the Commission on Human Rights at its next session to send the Special Rapporteur on extrajudicial, summary or arbitrary executions to Aceh.

49. With regard to Peru, he expressed concern at its decision no longer to accept the compulsory jurisdiction of the Inter-American Court of Human Rights, after the latter had found for the victims of violations in a whole series of cases. Peru was evidently seeking to pre-empt further adverse decisions. Moreover, Peru had anti-terrorist legislation which allowed civilians to be tried for treason by military courts and which gave the police and armed forces the power to detain civilians incommunicado for long periods, which facilitated the practice of torture. A

new law enacted in 1998 gave military courts the power to try civilians accused of "aggravated terrorism", which encouraged all kinds of abuse, such as arbitrary arrests, torture and the violation of the right to a fair trial.

50. He therefore urged the Sub-Commission to submit the question of the protection of human rights in Peru to the Commission on Human Rights at its next session.

51. Ms. KIM SUN YONG (Asian Women's Human Rights Council) said that even though it was 50 years since Korea had been occupied by Japan, Koreans living in Japan, particularly Korean students, were suffering from the aftermath of colonization. Japan had not yet implemented the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Communities; on the contrary, it practised a policy of discrimination against Korean students.

52. At primary school level, pupils could not study their own language and culture in Japanese schools. If they went to a Korean secondary school, they could not sit the entrance examination for State universities, although they were entitled to do so if they passed a preliminary aptitude test, as a result of a measure adopted earlier in the year that revealed the unequal treatment of Korean and Japanese students. She herself, in order to sit the entrance examination for the University of Tokyo, had had to leave her Korean school and go to a Japanese school, otherwise she would not have been able to study at the university of her choice.

53. She therefore asked the Japanese Government to take immediate steps to put an end to that discriminatory treatment and requested the Sub-Commission to monitor and investigate the situation.

54. Mr. MAHMOOD (Observer for Iraq), after briefly recalling the history of the United Nations, said that the new world order actually hid a new hegemonic situation in which some States were trying to use the Organization for their own purposes while reducing its ability to resolve international problems. As long as the human rights debate continued to be used for political ends, it could only further polarize States.

55. At the very moment that the fifty-first session of the Sub-Commission was being held, the embargo imposed on Iraq was entering its tenth year. The suffering inflicted on the Iraqi population as a result of it was well known to everyone. The thousands of tons of bombs dropped on Iraq had in fact been mainly aimed at the civilian infrastructure, with the avowed aim of bombing the country back into the pre-industrial age. The embargo had disastrous consequences for the fundamental collective and individual rights of Iraqis. Despite the Government's efforts, it was almost impossible to meet the basic needs of the population for food and medicine, and the most vulnerable groups were the first to suffer. Over 1 million children had died between 1990, when sanctions had been imposed, and the end of 1998. The education, industry, agriculture and transport sectors had been particularly hard hit by the lack of raw materials and spare parts. The destruction of industrial and oil facilities had led to the leakage of thousands of tons of toxic substances into the environment. Moreover, the American and British forces acknowledged that they had used 300 tons of depleted-uranium munitions, the

residue from which had been scattered over the whole country, causing an increase in the prevalence of leukaemia, cancers and congenital diseases, as well as the emergence of rare or unknown diseases.

56. The United States and the United Kingdom were not content just to insist on maintaining the embargo, despite the fact that Iraq had fulfilled its obligations under the relevant Security Council resolutions. Between 16 and 20 June 1998, they had launched a large-scale military offensive which had claimed hundreds of innocent civilian victims. The United States Government's policy towards Iraq was, moreover, openly based on interference. In July 1998, for example, Congress had passed the "Iraq Liberation Act", under which terrorist groups were to be paid a sum of $97 million to destabilize Iraq, in flagrant violation of the Charter of the United Nations and the rules and principles of international law.

57. Mr. AL-HADDAD (Observer for Bahrain) reaffirmed his Government's determination to protect human rights. Bahrain enjoyed one of the highest standards of living in the world, and was ranked thirty-seventh in the annual Human Development Report of the United Nations Development Programme (UNDP). It was a major banking and commercial centre with a strongly developing industrial base underpinned by a well-developed regulatory framework. The year 1999 marked the beginning of a new era in Bahrain. The country had a new emir and a raft of coordinated measures had been implemented to address the challenges of the twenty-first century. The Government had adopted a strategy based on consultation and cooperation at home and abroad, as part of which it had called on the services of the Office of the United Nations High Commissioner for Human Rights in order to consolidate the measures taken in the field of human rights.

58. Those measures included the release of a large number of detainees, the withdrawal of Bahrain's reservation on article 20 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and a visit from Amnesty International. The Working Group on Arbitrary Detention would also be visiting the country at a date to be agreed upon. Meanwhile, the International Committee of the Red Cross continued with its regular visits in accordance with the memorandum of understanding signed in 1996. Lastly, accession to the Convention on the Elimination of All Forms of Discrimination against Women was under consideration.

59. In conclusion, he assured the Sub-Commission of the continued cooperation of the Government of Bahrain and its commitment to the promotion of human rights.

60. Mr. JOINET noted with satisfaction the progress made in Bahrain and invited all States which had entered a reservation on article 20 of the Convention against Torture to follow that country's example. He also hoped that a date could quickly be set for the visit there by the Working Group on Arbitrary Detention.

61. Mr. RI Tcheul (Observer for the Democratic People's Republic of Korea) said that his Government considered human rights as sacred and inviolable and that it was constantly developing measures to ensure the protection of those rights. Among its major achievements were freedom of political activity, ownership of the means of production, the guarantee of stable employment for everyone, free compulsory education for 11 years, free medical care, the

abolition of taxation, reduced working hours and adequate paid maternity leave for women, the special status granted to children and the payment by the State of the costs of bringing up and educating children.

62. New measures had been taken since 1998 to further strengthen the guarantees of the rights and freedoms of citizens. In particular, the Constitution had been revised and supplemented, along with about 80 laws and regulations, including the electoral law and the law on publications. Also, about 100 international human rights instruments had been published in Korean. Following the consideration of the initial report of the Democratic People's Republic of Korea on the implementation of the Convention on the Rights of the Child, a national coordinating committee had been set up to improve the implementation of that instrument and to prepare the second periodic report. Lastly, the Government was seriously considering ratifying the Convention on the Elimination of All Forms of Discrimination against Women.

63. His Government attached great importance to cooperation and dialogue in the field of human rights and maintained that countries should not be pigeon-holed according to their size, level of development or alliances. The United Nations should ensure it was impartial, objective and non-selective in all its human rights-related activities. Mutual cooperation in that area was inconceivable unless the sovereignty of all countries, with their differing systems, traditions and customs, was respected. His Government would continue to respect international human rights instruments on the basis of that principle and would continue to fulfil its obligations faithfully.

64. Mr. WIRAJUDA (Observer for Indonesia) began by stressing that the Sub-Commission should give full attention to the reform of its working methods, especially as far as the consideration of agenda item 2 was concerned. In particular, it should refrain from any superficial and selective interpretations. Flagrant and systematic violations of human rights in any given country should not only be condemned but also recognized as a serious problem in need of a solution that took into account the social, cultural and historical aspects of that country. The role of the Sub-Commission should basically be to encourage dialogue and promote technical assistance and advisory services. Contributions from NGOs to the process should be encouraged as long as they were not politically motivated.

65. For its part, Indonesia, under the guidance of President Habibi and the reforming cabinet he had set up on 24 May 1998, had embarked on profound political, economic and legal reforms which had allowed democracy and human rights to flourish in the country. In less than 15 months, Indonesia had made substantial progress in the area of the promotion and protection of human rights. The new political laws ensured a broader and more equitable representation of people's aspirations, as well as greater accountability in the workings of the State apparatus. The restrictions on political parties and trade unions had been lifted. In addition, 213 political prisoners had been amnestied. Press freedom was henceforth guaranteed, as was the right to organize demonstrations, providing the police was notified beforehand. NGOs were growing in number and becoming increasingly active.

66. A national plan of action for human rights, covering the period 1998-2003, had been launched. Several international human rights instruments, including the core ILO conventions in that area, had accordingly been ratified. The legislative basis for the National Human Rights Commission was being worked out. A national commission to prevent violence against women

and a commission to protect children's rights had also been set up. In order to increase the independence and professionalism of the police, the latter had been separated from the armed forces. Measures had also been taken to combat racial discrimination. For example, several discriminatory laws and regulations had been repealed. At the international level, cooperation between the Indonesian Government and the United Nations human rights mechanisms was being strengthened.

67. On the question of East Timor, the far-sighted approach of the Indonesian Government had made it possible to offer the Timorese people a wide-ranging plan for autonomy, which would be the subject of a consultation organized by the United Nations Mission in East Timor on 30 August 1999. If the plan was rejected, the Government would take the necessary steps at the constitutional level to propose that the People's Consultative Assembly should consider the separation of East Timor from Indonesia. The number of Timorese inside and outside the province who had already registered to vote (393,152) showed that the security and freedom of movement of the people were guaranteed.

68. Mr. KESANG (Observer for Bhutan) recalled that the Sub-Commission had adopted, at its fiftieth session, a chairperson's statement calling on the Governments of Nepal and Bhutan to negotiate in good faith in order to find a quick and lasting solution to the problem of the people living in the refugee camps in eastern Nepal. His Government had welcomed the declaration and had taken a number of major initiatives to find a bilateral solution to that very complex problem. In that connection, it should not be forgotten that the rising tide of illegal immigrants posed a threat to the survival of Bhutan. The camps in Nepal, which received international aid, had attracted all kinds of people from among those displaced and left destitute in large numbers as a result of a combination of economic, environmental and demographic factors. Aware of the dangers linked to vast population movements in the north-eastern region of South Asia, Bhutan and Nepal had agreed, at the ministerial meeting held in Kathmandu in October 1993, to classify the people concerned into four categories. The ongoing dialogue between the two countries was aimed at reaching an agreement on each of those categories.

69. His Government welcomed the formation of a majority Government in Nepal, which should help bring about an early solution to the tragic humanitarian situation in the camps and the problem of illegal immigration. The international community and the Sub-Commission were encouraged to continue to support the ongoing bilateral process.

70. Mr. MERIC (Observer for Turkey) said it was regrettable that document E/CN.4/Sub.2/1999/4 mentioned only the appeals made to his Government by United Nations human rights mechanisms without reporting the replies communicated to those mechanisms by his Government, and provided a number of details on Mr. Birdal's situation, as described in paragraphs 2 to 5 of the document in question. He first recalled that Mr. Akin Birdal had been sentenced on 21 October 1997 by a court of first instance to one year's imprisonment and a fine for incitement to hatred or discrimination on the basis of race, religion or ethnic origin, in accordance with article 312/2 of the Turkish Penal Code. That decision had been confirmed in October 1998, after two appeals lodged by Mr. Birdal's lawyers. The execution of the sentence had been postponed for four months, which was the maximum period allowed under the law on penal procedure. Consequently, Mr. Birdal had been serving his sentence in prison in Ankara since 3 June 1999.

71. Mr. Birdal was in good health. However, following an assassination attempt on him in the previous year, he had problems with his right arm which required special treatment. It had been established that there were no medical grounds to prevent Mr. Birdal's imprisonment provided that the prison was appropriately equipped, and the Ministry of Justice had ascertained that it was. Mr. Birdal was receiving daily treatment from a physiotherapist. Moreover, the investigation into the assassination attempt had shown that State officials had absolutely nothing to do with it.

72. Equality before the law was one of the fundamental principles of the State governed by the rule of law. Mr. Birdal had been prosecuted and convicted in accordance with the relevant provisions of the Code of Penal Procedure. His position as President of the Turkish Human Rights Association did not place him above the law. Moreover, the Declaration on Human Rights Defenders stressed that the latter had as many responsibilities as rights.

73. Mr. CHANG Man-soon (Observer for the Republic of Korea) said that despite the almost universal recognition of democracy and human rights, certain totalitarian regimes continued to deny the fundamental rights of their people. No racial, cultural or religious characteristic could justify such behaviour. Strong measures must be taken to prevent those violations from occurring anywhere in the world. The recent conflict in Kosovo had clearly demonstrated that the violation of human rights in a country could be a threat to international peace and security. It was to be hoped that the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance would help to establish a culture of tolerance at the national, regional and global levels. Human rights education should also be strengthened. In that connection, his Government was planning to hold, in collaboration with the Office of the United Nations High Commissioner for Human Rights, a subregional training workshop on human rights education in Seoul in December 1999.

74. His delegation strongly believed that the Sub-Commission played an important role in protecting and promoting human rights. Despite differences of opinion on, in particular, the possible duplication of the work of the Commission on Human Rights, the Sub-Commission had nevertheless managed to tackle problems that the Commission could not have addressed for reasons of a political nature.

75. Greater protection and promotion of human rights had become a priority objective for the Republic of Korea since the coming to power of President Kim Dae-jung in 1998. The Government, guided by the principle of the parallel development of democracy and the market economy, had taken practical measures to better guarantee the rights and freedoms of citizens. Since 1998, for example, it had released some 6,000 prisoners, including 17 people convicted of spying, and planned to grant a large-scale amnesty on the occasion of the commemoration of National Liberation Day. An independent national human rights commission was expected to be launched by the end of 1999 and the National Security Act was expected to be revised or repealed. Recognizing that the protection and promotion of human rights was a long-term process, his Government would continue its work to strengthen the fundamental rights of all its people.

76. Mr. KRISAFI (Observer for Albania) said that Albania was one of the countries most affected by the fall-out from the events in Kosovo and that, despite its own problems, it had opened its doors to around half a million Kosovars.

77. The situation of the Kosovar Albanians had worsened dramatically during the previous session of the Sub-Commission. The urgent appeals by the latter for an end to the widespread and systematic violations of human rights in Kosovo had unfortunately gone unheeded. It should be remembered that the atrocities committed in 1998 and 1999 had been preceded by 10 years of measures aimed at wiping out Albanian culture and thinking. Work at the current session coincided with a period of radical changes in Kosovo. In that regard, he deplored the fact that some commentators had condemned the action by NATO, which had the support of the Kosovar people and the international community. Rather than worry about the physical damage caused by the NATO bombing, those people should be demanding that the perpetrators of crimes against humanity in Kosovo should be brought to justice.

78. At the present time, the United Nations and other international organizations were trying to return the situation in Kosovo to normal. One could only hope that the people of Kosovo would one day be able to enjoy their basic rights. It should be stressed that the representatives of the people of Kosovo had condemned all acts of violence against the Serb minority or other minorities living in Kosovo and that they were committed to respecting and protecting the human rights of those minorities.

79. Mr. QIAO Zonghuai (Observer for China) welcomed the Sub-Commission's efforts to rationalize its work, particularly to adopt fewer country-specific resolutions and to avoid duplicating the work of the Commission, and he hoped that the Sub-Commission would take further action along those lines. In the belief that the best way to promote human rights was to develop dialogue and cooperation on a basis of equality and mutual respect, his delegation was pleased to note that the Sub-Commission, at its forty-ninth and fiftieth sessions, had adopted a resolution on the promotion of dialogue on human rights issues, which had alleviated the prevailing confrontational atmosphere. In the course of reforming its work, the Sub-Commission should focus on studies and the services of experts in order to become more effective.

80. With regard to the agenda item under consideration, it should be recalled that the principle of national sovereignty was at the very heart of international law and international relations and that, in accordance with the Charter of the United Nations, the United Nations, which was composed of sovereign States, should not interfere in the internal affairs of States. That principle was still valid even in a period of economic globalization and it was of particular importance to developing countries, who were at an economic disadvantage in the face of international competition. In the field of human rights, in accordance with that principle, it was for States themselves to decide whether or not to accede to the international human rights instruments and to undertake various international obligations to protect those rights. No State could impose its own values on another State. Any attempt to do so jeopardized not only human rights but also world peace and security.

81. His Government had taken effective measures to ensure that all Chinese citizens enjoyed their civil, political, economic, social and cultural rights, and would not tolerate any person or organization spreading lies that harmed or destabilized society. The decision to ban the activities

of the Falun Gong organization and its members had been taken in the interests of the whole Chinese population, in strict accordance with Chinese law and the provisions of international human rights instruments. Moreover, it was in keeping with the practice of all responsible States and Governments in the world and enjoyed widespread support.

82. Lastly, his Government was cooperating actively with the human rights mechanisms set up by the United Nations. It had already signed the two International Covenants on Human Rights and was considering ratifying them. The High Commissioner for Human Rights, Mrs. Robinson, had visited China and the Special Rapporteur on the question of torture had been invited to visit. Those visits and exchanges would help to strengthen the links between China and those mechanisms and to promote the development of international cooperation in the field of human rights.

83. Mr. CHATTY (Observer for Tunisia) said that, since the previous session of the Sub-Commission, his Government had continued its work to promote human rights and fundamental freedoms. The radical reforms undertaken at all levels in recent years had led to the establishment of several legal and administrative mechanisms and organizations and to the adoption of a range of measures to strengthen the rule of law and institutions. His Government had opted for a comprehensive, multi-dimensional approach in that area so that economic and social development could be achieved at the same time as civil and political rights were being promoted. Permanent links had thus been established between human rights, economic progress and democracy. Almost all the legislation in force had been amended in order to strengthen political pluralism and freedom of speech and association. Significant progress had also been made in important areas like education, health, the environment, women's rights and child protection, as well as in the fight against poverty and exclusion.

84. Among the measures adopted after 7 November 1998, the eleventh anniversary of the Change of 7 November 1987, were the reform of the Electoral Code, which would allow the opposition, in the general election in October 1999 and the local elections in 2000, to hold at least 20 per cent of the seats in the Chamber of Deputies and on local councils. On 20 June 1999, moreover, the Chamber of Deputies had adopted on second reading a constitutional statute on the exceptional provisions introduced into article 40 of the Constitution, by virtue of which, for the first time in Tunisia, any leader of a political party could run for the presidency in the 1999 presidential election even if he did not meet the conditions laid down in the Constitution. Also worth noting were the introduction of alternatives to prison sentences, in certain cases, the reduction of the period a person could be held in custody from 10 to 3 days, the creation of the post of visiting magistrate, the recognition of the right to appeal to a higher court in criminal matters in order to consolidate the right to a defence, and the introduction into the Penal Code of a definition of torture to bring the legislation into line with the provisions of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, numerous social measures had been taken, such as the establishment of the Tunisian Solidarity Bank and the setting-up of a system of microcredit which, together with the National Solidarity Fund, were key elements in the social action to increase solidarity and mutual help and to fight against poverty and exclusion.

85. Lastly, he deplored the attitude of a certain NGO that was using the Sub-Commission to spread groundless allegations about Tunisia for what were clearly political reasons. His

Government had never claimed to have reached all its objectives in the field of human rights but it had already made great progress towards democracy and the enjoyment of economic and social rights by the people of Tunisia, and its tangible results were recognized by specialized international agencies whose credibility was unquestioned. Others could continue to spread untruths and persist in their errors if they so wished.

86. Mr. MUSAYEV (Observer for Azerbaijan) recalled that, according to the definition of aggression contained in General Assembly resolution 3314 (XXIX), the territory of a State was inviolable and could not be the object, even temporarily, of military occupation or acquisition by another State resulting from the use of force in contravention of the Charter of the United Nations. However, such situations were still common and some Governments tried to justify or hide their aggressive policies towards another State by claiming that the struggle of ethnic minority groups for self-determination was the cause of the conflict in which they were involved, even though in some cases the Security Council had adopted a resolution condemning the occupation of the territory concerned. Moreover, in accordance with international humanitarian law, the transfer by the occupying power of its own civilian population into the territory it occupied was prohibited. However, illegal settlements of that sort were common when the occupying power was seeking to prolong its occupation. In such cases, the international community should insist that the occupation of a territory by force was illegal and therefore temporary. In addition, there was no shortage of information on the inhuman treatment meted out to hostages and prisoners of war, in contravention of international humanitarian law. Lastly, he was seriously concerned about the problem of people reported missing in the occupied territories but who were in fact concealed by the occupying power without the knowledge of the International Committee of the Red Cross.

87. His Government also shared the growing concern of the international community at the alarming upsurge in acts of terrorism, which were a serious threat to human rights and fundamental freedoms and which jeopardized the security and territorial integrity of States. He believed it necessary to strengthen international cooperation in order to eliminate terrorism and to look into the possibility of developing an international legal framework to combat international terrorism as a crime against humanity. The prevention of war crimes and crimes against humanity required that those guilty of such crimes be punished. Since, as the Commission on Human Rights had emphasized in its resolution 1999/34, "the practice and expectation of impunity for violations of international human rights or humanitarian law encourage such violations and are among the fundamental obstacles to the observance of international human rights and humanitarian law".

88. Mr. PALIHAKKARA (Observer for Sri Lanka) said that progress had been made in the promotion and protection of human rights in Sri Lanka. His Government had continued to cooperate with the International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees and a large number of national and international humanitarian organizations, and it had invited the Working Group on Enforced or Involuntary Disappearances to visit the country. The Sri Lankan Human Rights Commission had taken the initiative to organize an important symposium, sponsored by the Asia-Pacific Forum and the Office of the United Nations High Commissioner for Human Rights, which had considered ways to develop cooperation between the national institutions, NGOs and Governments in the region in the field of human rights.

89. At the humanitarian level, his Government had continued to provide food and other essential supplies to people living in the areas affected by terrorism, even though the Liberation Tigers of Tamil Ealam (LTTE) continued to block the transport of those supplies in any way they could in order to create crisis situations which they could turn to their advantage. Contrary to the claim by the representative of the International Peace Bureau, it was the LTTE, not the Government, that was blocking the transport routes for those supplies, and the special representative of the Secretary-General who had visited Sri Lanka had clearly recognized that, saying that the country provided a unique example of a Government that was distributing supplies to people in the full knowledge that a large part of the supplies would fall into the hands of an armed group waging a violent campaign against it. The policies and programmes set up by the Government in the area of human rights and humanitarian action had to be seen in the context of the terrible threat to the country's security posed by the activities of the LTTE.

90. Despite that group's intransigence, the Government had persisted in its efforts to promote a political process of constitutional reform and devolution of power in order to solve the ethnic problems facing the country. The LTTE stubbornly rejected any political negotiations and continued to eliminate all those seeking peace, including human rights defenders. For its part, his Government was ready to hold talks with that group if it demonstrated its willingness to renounce its violent campaign for a separate State in Sri Lanka and joined in efforts to find a negotiated political solution to the crisis in the country within a specific time-frame.

91. Mr. DE ICAZA (Observer for Mexico) said that Mexico was totally committed to democracy. In recent years, amendments had been made to the Constitution, the legal regime governing political parties and groups and the legislation governing the independence and autonomy of the electoral authorities. In order to strengthen the rule of law, measures had been taken since 1994 to guarantee the independence of judicial bodies and ensure their working conditions were optimal, and also to combat impunity. Thus, following the Attorney-General's inquiry into the massacre at Acteal on 22 December 1997, over 100 people had been arrested, 20 of whom had already been convicted in first instance.

92. Significant progress had been made in the field of human rights, including the launching in December 1998 of a national programme to promote and strengthen human rights, which provided for the implementation of measures to strengthen prosecution mechanisms in cases of human rights violations, to improve the protection of vulnerable groups and to ensure that Mexico met its obligations under the treaties to which it was a party. The position of the Ombudsman had been consolidated and Congress had recently approved a government proposal to amend the Constitution in order to guarantee the complete autonomy of the National Human Rights Commission, whose chairman would henceforth be elected by the legislature and which would be granted legal personality and a budget of its own. In the context of establishing a human rights culture, the National Human Rights Commission had developed training courses in human rights, which had been attended by 38,648 officials in 1998 alone. His Government had also cooperated widely with the international human rights mechanisms, including through visits to the country by some of them. His Government had also entered into some new international obligations, notably by accepting the compulsory jurisdiction of the Inter-American Court of Human Rights.

93. As exclusion was intolerable in a democracy, his Government was also pursuing its efforts to alleviate the poverty which still affected a large sector of the population, particularly indigenous people. In the State of Chiapas, for example, numerous measures had been taken to improve services in the area of education and health care. Congress was studying an initiative submitted by the Government in the framework of the implementation of the San Andrés accords, aimed at establishing a new relationship between the Mexican State and indigenous communities, an issue that was the subject of a lively national debate. It should be noted, however, that the differences of opinion on that matter were less pronounced in Mexico itself than they were within the international community and that the most modest of the initiatives or laws adopted at the national level went further than the draft United Nations declaration on the rights of indigenous peoples, which the relevant Working Group of the Commission on Human Rights had still not adopted because of opposition from other countries.

94. Lastly, speaking for once in exercise of the right of reply, he categorically refuted the allegations made by the representatives of two NGOs who had accused his delegation of bringing to the Sub-Commission's session Mexican deputies belonging to a particular political party and of providing them with the financial wherewithal for that purpose. He said that the members of his delegation, whose integrity was being called into question, were all officials from the Ministry of Foreign Affairs and did not belong to any party, and that they treated all the deputies attending the session alike, regardless of whether they were indigenous or not and which party they belonged to.

The meeting rose at 6 p.m.